UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION) CIVIL ACTION: 01-CV-12257-PBS
THIS DOCUMENT RELATES TO:))
State of California ex. rel. Ven-A-Care, et al. v. Abbott Laboratories, Inc., et al.,) Judge Patti B. Saris)
Case No. 03-CV-2238	
))

B. BRAUN OF AMERICA INC.'S MOTION TO DISMISS THE STATE OF CALIFORNIA'S FIRST AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 12(b)(2), B. Braun of America Inc. ("BBA") respectfully moves this Court to dismiss the State of California's First Amended Complaint in Intervention ("Complaint") as to it for lack of personal jurisdiction. In addition, to the extent other defendants file motions under Federal Rule of Civil Procedure 12 that may be applicable to it, this defendant joins in those motions, does not waive any of its arguments under any provisions of that Rule and reserves all of its all rights under all provisions thereunder.

As stated more fully in the accompanying memorandum of law in support of this motion, the Complaint must be dismissed because BBA has no contacts with the forum and has engaged in no conduct related to allegations of the Complaint. Therefore, this Court lacks personal jurisdiction over BBA. Defendant "McGaw, Inc." should also be dismissed because it does not exist as a legal entity and therefore cannot be properly named as a party to this case.

Therefore, for the reasons stated in the accompanying memorandum, the Court is requested to dismiss B. Braun of America Inc. and "McGaw, Inc." from the case.

Dated: January 17, 2006

Respectfully submitted,

/s/ Daniel F. Attridge, P.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of B. Braun of America Inc.'s Motion to Dismiss The State of California's First Amended Complaint in Intervention, and accompanying Memorandum of Law and Affidavit in support thereof, and Proposed Order, has been served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LEXIS File & Serve for posting and notification to all parties on this 17th day of January 2006.

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